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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,224	08/28/2001	Doug Zatezalo	VI/99-016.C	5672

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EXAMINER

JUNG, WILLIAM C

ART UNIT	PAPER NUMBER
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3737

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/941,224	Applicant(s) ZATEZALO ET AL.	
	Examiner William Jung	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-33 and 39-41 is/are allowed.
- 6) ☒ Claim(s) 1-30 and 34-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed August 6, 2004 have been fully considered but they are not persuasive. ~~XXXX~~.

The applicant's assertion that Prince patent is different from the claimed invention in current application since Prince does not contemplate a first injection of a flushing medium followed by a contrast injection. More over, the applicant asserts that the Prince patent does not establish selectable injection phases. Examiner disagrees with the applicant. First, the Prince patent does inject flushing medium prior and post contrast injection (evidenced by the fact that Prince discloses "resume to flush Gd" (col. 18, line 43), which anticipates that the flushing medium took place before the contrast injection. In addition, Prince anticipates establishment of selectable phases where the injection concentration, rate, viscosity, etc. are selectably arranged. Therefore, Prince anticipates all claimed features of claims 1-4, 6-22, 24-30, and 34-36.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-22, 24-30, and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by *Prince* (US 5,553,619).

Claims 1, 6, 14, 18, 22, 31, and 34: Prince anticipates all claimed features in claims 1, 6, 14, 22, 31, and 34. Prince discloses a method and apparatus for injecting contrast medium into a

Art Unit: 3737

patient where the method and apparatus includes establishing a first phase of an injection protocol to inject saline solution to flush the tubing and establishing second phase injection protocol to inject contrast medium such as Gadolinium (col. 18, lines 30-46).

Claim 2: Prince also anticipates establishing third phase of flushing medium to clear out the contrast medium injection, so as to establish next phase of injection.

Claims 3 and 4: Prince establishing minimum infusion or injection rate (col. 18, lines 47-63).

Claims 7-11, 15-17, 19, 24-28, 35, and 36: Prince anticipates control device and pump to inject contrast medium and flushing medium phase set at pre-selected or pre-programmed amount at the selected rate determined above, volume, and time period (col. 21, lines 30-46).

Claims 12, 13, 20, 21, 29, and 30: Prince anticipates at least dual vessel to inject contrast medium and saline solution with injection control include pump 20 in figure 7.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 23, 37, and 38 rejected under 35 U.S.C. 103(a) as being unpatentable over *Prince* as applied to claim 1, 6, 14, and 22 above, and further in view of *Wilson et al* (US 5,573,515).

Prince substantially discloses all claimed features in claims 5, 23, 37, and 38. However, Prince does not anticipate a user interface control selector is a touch screen. *Wilson et al* teach

Art Unit: 3737

an apparatus to inject contrast medium where the user interface control includes touch screen (col. 11, lines 16-18). Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to apply Wilson et al's teaching of using touch screen as an user interface to control the injection to improve the user interface of Prince's contrast medium injector.

Allowable Subject Matter

6. Claims 31-33 and 39-41 are allowed.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Jung, Ph.D. whose telephone number is 571-272-4739. The examiner can normally be reached on Mon-Fri 8:30 AM to 5 PM.

Art Unit: 3737

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


January 20, 2005


BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700